

AMENDMENT UNDER 37 C.F.R. § 1.116
EXPEDITED PROCEDURE
GROUP 1642
PATENT APPLICATION

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Tohru TANAKA, et al.

Appln. No.: 09/445,963

Confirmation No.: 1604

Group Art Unit: 1642

Filed: December 16, 1999

Examiner: N. Davis

For: AGENT FOR DIAGNOSING AND TREATING MALIGNANT TUMORS

**SUPPLEMENT TO AMENDMENT UNDER 37 C.F.R. § 1.116
WITH ENGLISH TRANSLATION**

ATTN: BOX AF
Commissioner for Patents
Washington, D.C. 20231

Sir:

As discussed with the Examiner concerning this application, applicants intended to file an English Translation of Kajiwara. That English translation is attached.

The prior art relied upon in the Final Rejection of August 28, 2001, is (giving only first names) Jichlinski, Jaffe, Kajiwara, and Kennedy.

Based on discussions with the Examiner, the following art rejections are posed:

Claim 7 as anticipated by Kajiwara.

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Claims 8 and 9 as obvious over Jichlinski and Jaffe.

Claims 10 and 11 as obvious over Kajiware in view of Kennedy.

If applicants' counsel has misunderstood any of the rejections, the Examiner is requested to telephone the undersigned.

Claims 7-11 are thus pending.

The claims of the present application can be roughly characterized as follows:

Claim 7: composition comprising 5-ALA isotope plus carrier.

Claim 8: method for detecting malignant tumors by administering 5-ALA isotope and detecting using NMR.

Claim 9: method of claim 8 where a carrier is used.

Claim 10: method of treating malignant tumors by administering 5-ALA isotope, detecting the malignant tumors and killing the malignant tumors.

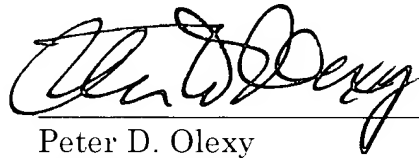
Claim 11: method of claim 10 involving a carrier.

Turning to the translation of Kajiware, applicants feel that page 5, lines 22-23 of the translation of Kajiware is particularly appropriate. Applicants believe that the disclosure in Kajiware can accurately be characterized as teaching only the use of PBG (heme precursor porphobilinogen - the definition is given in the English translation at page 2, lines 8 and 9) and the utility for that material is a therapeutic drug for lead poisoning. See especially the English translation at page 5, lines 22 and 23.

Supplement to Amendment Under 37 C.F.R. § 1.116
U.S. Appln. No. 09/445,963

Thus, applicants respectfully submit that Kajiwara in no fashion suggests the present invention, either in the sense of anticipation or obviousness, and request withdrawal of any rejection predicated in whole or in part based on Kajiwara.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter D. Olexy", written over a horizontal line.

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